

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

UNITED STATES COMMODITY
FUTURES TRADING COMMISSION,

Plaintiff,

v.

JAMES A. MAGGIO; TRADE RISK
MANAGEMENT, LLC (Washington); and
TRADE RISK MANAGEMENT, LLC
(Oregon),

Defendants.

CASE NO. C05-5766RJB

ORDER ON MOTION TO
POSTPONE TRIAL DATE AND
ALL OTHER PRETRIAL
DEADLINES

This matter comes before the Court on Defendant James A. Maggio's Motion to Postpone Trial Date and All Other Pretrial Deadlines (Dkt. 40). The Court has considered the pleadings filed in support of and in opposition to the motion and the remainder of the file herein.

I. FACTUAL AND PROCEDURAL BACKGROUND

According to the complaint, the defendants sell a stock market analysis service known as Sigma Band Charting through an internet website and materially misrepresent the risk and profit-making ability of the service. Dkt. 1 at 2. The complaint alleges that the defendants' conduct violates the Commodity Exchange Act and Commodities Futures Trading Commission regulations. *Id.* at 7.

On May 31, 2007, counsel for the defendants withdrew from representation of the defendants. Dkt. 38. The defendants have not obtained replacement counsel.

Mr. Maggio has sent three emails to the Court. Dkt. 39; Dkt. 40; Dkt. 43. By Minute

1 Order, the Court construed Mr. Maggio's second letter as a Motion to Postpone the Trial Date
2 and All Other Pretrial Deadlines. Dkt. 41.

3 Mr. Maggio initially based his request on the need for time to retain Richard Brady as
4 counsel. Dkt. 40. Plaintiff's counsel informs the Court that Mr. Brady is no longer willing to
5 represent Mr. Maggio. Dkt. 42 at 2. The plaintiff does not object to "a reasonable change in the
6 trial date to accommodate any scheduling conflict by an attorney representing Mr. Maggio" but
7 objects to any extension of discovery." *Id.* Mr. Maggio did not file a proper reply, and the Court
8 declines to construe Mr. Maggio's third email (Dkt. 43) as a reply (*see* Minute Order, Dkt. 44).

9 II. DISCUSSION

10 Trial courts have broad discretion in deciding whether to grant or deny a request for a
11 continuance. *U.S. v. Flynt*, 756 F.2d 1352, 1358 (1985), *amended by* 764 F.2d 675 (9th Cir.
12 1985). Trial in this matter is currently set for November 13, 2007. Dkt. 27. The discovery
13 deadline is July 16, 2007. *Id.* Trial has already been rescheduled once at the request of the parties.
14 Dkt. 26; Dkt. 27. If Mr. Maggio succeeds at obtaining new counsel, a continuance of the trial
15 date and other pretrial deadlines may be justified. At this juncture, continuance of the trial date
16 would be premature and speculative. The Court should therefore deny the motion without
17 prejudice, allowing Mr. Maggio's counsel, in the event that he obtains counsel, to raise the issue if
18 necessary.

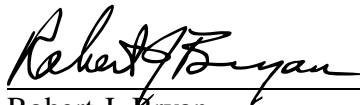
19 III. ORDER

20 Therefore, it is hereby

21 **ORDERED** that Defendant James A. Maggio's Motion to Postpone Trial Date and All
22 Other Pretrial Deadlines (Dkt. 40) is **DENIED without prejudice**.

23 The Clerk of the Court is instructed to send uncertified copies of this Order to all counsel
24 of record and to any party appearing *pro se* at said party's last known address.

25 DATED this 21st day of June, 2007.

26 
27 Robert J. Bryan
28 United States District Judge